

Second Regular Session 114th General Assembly (2006)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2005 Regular Session of the General Assembly.

## SENATE ENROLLED ACT No. 22

AN ACT to amend the Indiana Code concerning utilities and transportation.

*Be it enacted by the General Assembly of the State of Indiana:*

SECTION 1. IC 8-1-22.5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 1. As used in this chapter, unless otherwise provided:

(a) The term "gas" means natural gas, flammable gas, or gas which is toxic or corrosive.

(b) The term "transportation" ~~of gas~~ means:

(1) the gathering, transmission, or distribution of gas, **hazardous liquids, or carbon dioxide fluid** by pipeline; or

(2) the storage of gas, **hazardous liquids, or carbon dioxide fluids**.

~~except that it shall~~ **The term does** not include the gathering of gas in those rural locations which lie outside the limits of any incorporated or unincorporated city, town, village, or any other designated residential or commercial area such as a subdivision, a business or shopping center, a community development, or any similar populated area which the commission may define as a nonrural area.

(c) The term "pipeline" means all parts of those physical facilities through which gas, **hazardous liquids, or carbon dioxide fluid** moves in transportation, including pipe, valves, and other appurtenances attached to pipe, compressor units, metering stations, regulator stations, delivery stations, holders, and fabricated assemblies, but excluding

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motor vehicles of all kinds and pipelines serving not less than ten (10) customers with petroleum gas from a common source.

(d) The term "pipeline facilities" means and includes, without limitation, new and existing pipelines, rights-of-way and any equipment, facility, or building used in: ~~the~~

(1) transportation; ~~of gas or in~~

(2) the treatment of gas, **hazardous liquids, or carbon dioxide fluid** during the course of transportation. ~~but excluding~~

**The term excludes** motor vehicles of all kinds and pipelines serving not less than ten (10) customers with petroleum gas from a common source.

(e) The term "person" means any individual, firm, joint venture, partnership, corporation, limited liability company, association, municipality, cooperative association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof.

(f) The term "municipality" means a city, county, or any political subdivision of the state.

~~(f)~~ (g) The term "division" means the pipeline safety division to be established under this chapter.

~~(f)~~ (h) The term "maximum allowable operating pressure" means the maximum pressure at which a pipeline or a segment of a pipeline may be operated.

(i) **The term "hazardous liquid" means petroleum, petroleum products, or anhydrous ammonia.**

(j) **The term "carbon dioxide fluid" means a fluid consisting of more than ninety percent (90%) carbon dioxide molecules compressed to a supercritical state.**

SECTION 2. IC 8-1-22.5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 2. There is hereby established within the Commission a Pipeline Safety Division. The Division shall be charged with the regulation of: ~~the~~

(1) transportation; ~~of gas and of~~

(2) related pipeline facilities and ~~the their~~ operations; ~~thereof~~, in order to promote the public safety.

SECTION 3. IC 8-1-22.5-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 4. The division, acting through the commission, shall:

~~(a)~~ (1) Administer and require compliance with federal safety standards applicable to ~~the transportation of natural and other gas~~ and **for related** pipeline facilities ~~used in this transportation~~ established ~~and in effect, from time to time, pursuant to~~ **under** the

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Natural Gas Pipeline Safety Act of 1968 (~~Public Law 90-481, 49 U.S.C. 1671 et seq.~~) as the same may be amended (referred to in this chapter as the "Federal Pipeline Safety Act"); and the **Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. 60101 et seq.)**, and otherwise administer this chapter in such manner as may be required in order to maintain and continue in effect certification of the commission under ~~Section 5 of the Federal Pipeline Safety Act. 49 U.S.C. 60105.~~

~~(b) As soon as practicable after March 30, 1971,~~ **(2)** Establish, by rules and regulations of the commission, minimum state safety standards for the transportation of gas and related pipeline facilities. Such standards shall not be less stringent than the federal safety standards as established under the **Federal Pipeline Safety Act, 49 U.S.C. 60101 et seq.** and shall apply to the design, installation, inspection (including the taking possession of pipe and pipeline components), testing, construction, extension, operation, replacement, and maintenance of such pipeline facilities. Such new standards affecting the design, installation, construction, initial inspection, and initial testing shall not be applicable to pipeline facilities in existence prior to the date such standards are established. In establishing such standards, the following shall be considered:

- ~~(1)~~ **(A)** relevant available pipeline safety data;
- ~~(2)~~ **(B)** whether such standards are appropriate for the particular type of pipeline transportation;
- ~~(3)~~ **(C)** the reasonableness of any proposed standards;
- ~~(4)~~ **(D)** the extent to which such standards will contribute to public safety; and
- ~~(5)~~ **(E)** federal safety standards established under the **Federal Pipeline Safety Act, 49 U.S.C. 60101 et seq.**

Any person engaged in the transportation of gas or who owns, operates, or leases pipeline facilities shall certify annually to the division that it has complied with federal safety standards, in force and effect from time to time, applicable to the determination of change in class location and of confirmation or revision of maximum allowable operating pressure.

~~(c)~~ **(3)** Whenever a particular pipeline facility is found to be hazardous to human life or property, require, through the issuance of a hazardous condition order, the person who owns, operates, or leases such pipeline facility to take such action necessary to remove such hazards. Except in cases where immediate or extreme emergency is found to exist, such order shall not be

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issued until such person is afforded an opportunity to present ~~his~~ **the person's** views and any facts bearing on the situation. In any event, unless such order is issued after notice and hearing, the person to whom such order is directed shall be entitled to prompt notice and hearing on the question as to whether such order shall be continued in effect.

~~(d)~~ **(4)** Review ~~and summarize annually~~ all incidents reported within the state involving accidents resulting in personal injury requiring hospitalization, death, or property damage in excess of ~~three fifty thousand dollars (\$3,000)~~, **(\$50,000)**, when the same is accompanied by an explosion, misapplication, and/or escapement of gas, **hazardous liquid, or carbon dioxide fluid**. Copies of ~~this summary~~ **any official report of the division** shall be available for distribution to all interested persons, for the purpose of promoting pipeline safety.

~~(e)~~ **(5)** Keep itself informed as to research and development regarding pipeline safety. ~~including the feasibility of pipeline safety equipment.~~

SECTION 4. IC 8-1-22.5-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 5. Upon application by any person ~~engaged who engages~~ in the transportation of gas or who owns, operates, or leases pipeline facilities, the commission may, after notice and opportunity for public hearing, and under such terms and conditions and to such extent as the commission deems appropriate, issue an order waiving in whole or in part compliance with any standard or standards established under this chapter, if the commission determines that such waiver of compliance with such standard or standards is not inconsistent with gas pipeline safety. The commission shall state in such order its reasons for any such waiver and shall otherwise comply with the provisions of ~~the Federal Pipeline Safety Act 49 U.S.C. 60101 et seq.~~ with regard to such waiver.

SECTION 5. IC 8-1-22.5-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: Sec. 6. Any person ~~engaged~~ **who engages** in the transportation of gas or who owns, operates, or leases pipeline facilities shall:

- (a) Comply with this chapter and all safety standards established pursuant to this chapter. ~~from and after March 30, 1971.~~
- (b) Inspect such pipeline facilities and report the findings to the division as prescribed by standards established pursuant to this chapter.
- (c) File with the division a plan for ~~inspection~~ **operation** and maintenance of such pipeline facilities owned, operated, or leased

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by such person, and any change in such plan, as prescribed by ~~standards~~ **rules** established pursuant to this chapter. Such plan shall be subject to approval by the division, and if at any time such plan is determined by the division to be inadequate to achieve safe operation, upon recommendation by the director, the commission shall, after notice and opportunity for public hearing, order the plan revised. Any plan required under this chapter shall be practicable and designed to meet the need for pipeline safety. (d) Establish and maintain such records, make such reports, and provide such information as the division, acting through the commission, may reasonably require to enable it to determine whether such person has acted or is acting in compliance with this chapter and the standards established under this chapter.

Each person upon request of an authorized representative of the division shall permit such representative access and entry for the purpose of inspection of such pipeline facilities, and inspection of books, papers, records, and documents (including the right to copy the same) as is reasonably necessary in order to determine whether such person has acted or is acting in compliance with this chapter and the standards established pursuant to this chapter.

SECTION 6. IC 8-1-22.5-6.1 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 6.1. (a) If the commission or division determines that a report or part of a report filed under this chapter is confidential under IC 5-14-3-4(a), the report or part of the report shall be excepted from disclosure under IC 5-14-3-3 as provided in IC 5-14-3-4(a).**

**(b) If the commission or division determines under IC 5-14-3-4(b)(19) that the disclosure of a report or part of a report filed under this chapter has a reasonable likelihood of threatening public safety by exposing a vulnerability to terrorist attack, the commission or division may except the report or part of the report from disclosure under IC 5-14-3-3 as provided in IC 5-14-3-4(b).**

SECTION 7. IC 8-1-22.5-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2006]: **Sec. 7. (a) A person who is engaged in the transportation of gas or owns, operates, or leases pipeline facilities who violates any provision of this chapter or any regulations issued pursuant to this chapter, is subject to a civil penalty not to exceed ~~ten twenty-five~~ thousand dollars ~~(\$10,000)~~ **(\$25,000)** for each violation for each day that the violation persists. However, the maximum civil penalty may not exceed ~~five hundred thousand one~~**

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**million** dollars (~~\$500,000~~) **(\$1,000,000)** for any related series of violations.

(b) The commission may, after notice and opportunity for public hearing, impose a civil penalty not to exceed the amount specified in subsection (a) against a person who violates this chapter or any rules issued pursuant to this chapter, and may compromise and collect the penalties which are payable to the state as otherwise provided by law. However, a penalty may not be assessed or collected for any violation for which the person has been found liable under ~~the Federal Pipeline Safety Act.~~ **49 U.S.C. 60101 et seq.**

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President of the Senate

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President Pro Tempore

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Speaker of the House of Representatives

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Governor of the State of Indiana

Date: \_\_\_\_\_ Time: \_\_\_\_\_

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